Census of Public Defender Offices, 2007

Bureau of Justice Statistics

United States Department of Justice
Indigent Defense Symposium
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Bureau of Justice Statistics

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RETURN TO NORC/CPDO-07 16th Floor
One North State Street
Chicago, Illinois 60602

U.S. DEPARTMENT OF JUSTICE
BUREAU OF JUSTICE STATISTICS
(NORC ACTING AS DATA COLLECTION AGENT)

2007 Census of Public Defender Offices

- Developed through a collaborative effort between BJS, NLADA, and a number of chief defenders and other experts in the field of indigent defense.
- Reviewed by the American Bar Association's Standing Committee for Legal Aid and Indigent Defense and the National Association of Criminal Defense Lawyers.
- Topics include:
  - Public defender office policies
  - Criteria for indigency determinations
  - Number of attorneys and support staff
  - Number and type of cases received
  - Office expenditures
  - Professional development
  - Type of representation provided
  - Capital case representation

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Designed to collect office-level data from approximately 1,000 publicly-funded public defender offices in the US.

- **Includes** all public defender offices that were principally funded by state or local governments and provided general criminal defense services, conflict services, or capital case representation.
- **Excludes** offices that provided primarily contract or assigned counsel services with private attorneys
- **Excludes** any public defender offices that were privately or principally funded by tribal or federal government, or provided primarily appellate or juvenile services.

Data presented here describe 957 public defender offices.

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State-based public defender programs VS. County-based public defender offices

- **22 states** with state public defender programs provided aggregate data for all offices within the state.
  - Data presented at the state level.
- **27 states + DC** with county-based indigent defense systems provided public-defender data at the office level.
  - Data presented at the office level.
  - Number of cases received is used as a proxy for office size and office data is presented across small, medium, large, and extra large offices.

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In 2007, approximately 15,000 FTE public defenders nationwide received nearly 5.6 million cases

Type of office	Number of states	Population served (thousands)	Number of offices	Number of cases received	FTE litigating attorneys	Total expenditures (thousands)
U.S. total	50	240,160	957	5,572,459	15,161	$2,352,624
State-based	22	73,370	427	1,491,420	4,321	833,358
County-based	28	166,790	530	4,081,029	10,840	1,519,266

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9 state programs (~40%) had a formal policy regarding the maximum number of cases an attorney can carry at one time

State	Source of the maximum caseload policy-					Compliance is mandatory
	State law	Supreme Court Rule	State bar association	Oversight board	Office policy only	
Total number	2	1	1	3	3	7
Colorado	X		X			No
Connecticut				X		Yes
Maryland					X	No
Massachusetts	X					Yes
Montana				X		Yes
New Hampshire				X		Yes
New Jersey					X	Yes
Vermont					X	Yes
Wisconsin		X				Yes

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About 20% of county offices had a formal policy regarding the maximum number of cases an attorney can carry at one time.

County-based offices	Percent of offices with a maximum caseload policy	Source of the caseload policy-- State law	State bar association	Governing board or state commission	Office policy only	Compliance is mandatory
All offices	21 %	9 %	20 %	28 %	43 %	82 %
Less than 1,000 cases received	14	11	21	26	32	90
1,000-2,500	18	9	14	18	68	86
2,501-5,000	22	9	23	32	36	73
More than 5,000	29	9	20	31	38	82

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7 state public defender programs had neither caseload limits nor the ability to refuse cases

State		Programs with --			
		Caseload limits		Authority to refuse appointments due to caseload	
	Total percent	**50**	**%**	**36**	**%**
Arkansas		No		Yes	
Colorado		Yes		No	
Iowa		No		Yes	
Hawaii		No		No	
Wisconsin		Yes		No	

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More than half of all county-based offices had neither caseload limits or the authority to refuse cases

County-based offices	Percent of offices with --			
	Caseload limits		Authority to refuse appointments due to caseload	
All offices	**15.4**	**%**	**36.4**	**%**
Less than 1,000 cases received	11.8	%	27.9	%
1,000-2,500	13.8		27.0	
2,501-5,000	15.7		40.0	
More than 5,000	19.6		49.3	

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A quarter of all cases received by state public defender programs in 2007 were felony non-capital cases

State	All cases received	Percent of cases received by case type				Number of felony capital cases	Number of appeals cases
		Felony (non-capital)	Misdemeanor	Juvenile	Civil		
Total	**1,491,420**	**25 %**	**43 %**	**14 %**	**3 %**	**440**	**10,760**
Median	**72,740**	**25**	**50**	**13**	**1**	**2**	**103**
Maryland	199,750	21 %	63 %	10 %	7 %	15	60
Wisconsin	142,400	25	50	18	4	N/A	3,160
Minnesota	139,120	20	14	19	~	0	1,200
Arkansas	83,810	35	42	20	3	99	150
Massachusetts	16,820	76	19	3	~	N/A	270
North Dakota	2,270	35	29	22	12	N/A	50

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50% of cases received in county-based offices were misdemeanors that carried a jail sentence

County-based offices	Total cases received	Percent of cases received by case type				Number of felony capital cases	Number of appeals cases
		Felony (non-capital)	Misdemeanor	Juvenile	Civil		
Total offices	**4,081,029**	**30 %**	**50 %**	**9 %**	**4 %**	**8,845**	**20,183**
Median	**2,482**	**34**	**40**	**6**	**1**	**0**	**2**
Less than 1,000 cases received	62,582	33	47	10	5	19	668
1,000-2,500	200,396	39	41	9	5	45	1,252
2,501-5,000	374,617	38	42	10	4	60	1,402
More than 5,000	3,443,434	29	52	9	4	8,721	16,861

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Public defenders in state programs handled a median of 70 felony AND 139 misdemeanor cases in 2007

State	Number of FTE litigating attorneys	Felony (non-capital) cases received		Misdemeanor cases received	
		Number	Per FTE attorney	Number	Per FTE attorney
Total	**4,321**	**378,400**	**88**	**636,226**	**147**
Median	**163**	**11,415**	**70**	**22,673**	**139**
Colorado	241	55,160	229	26,670	94
Hawaii	93	4,600	49	31,170	335
Wisconsin	294	35,800	122	71,810	244
Wyoming	38	120	3	12,000	316
Massachusetts	197	12,830	65	3,180	16
New Hampshire	107	7,420	69	13,350	125

*Assumes that all cases are divided evenly among all attorneys in each program and that each attorney handles both felony and misdemeanor cases.

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Public defenders in county-based offices handled a median of 100 felony AND 146 misdemeanor cases in 2007

County-based offices	Median number of FTE litigating attorneys	Felony (non-capital) cases received		Misdemeanor cases received	
		Median number	Median per FTE attorney	Median number	Median per FTE attorney
All offices	**7**	**850**	**100**	**985**	**146**
Less than 1,000 cases received	2	110	50	183	100
1,000-2,5000	5	550	110	651	136
2,501-5,000	9	1,200	140	1,650	170
More than 5,000	28	3,500	126	5,151	208

*Assumes that all cases are divided evenly among all attorneys in each program and that each attorney handles both felony and misdemeanor cases.

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More than 60% of state programs and county offices exceeded the nationally recommended felony caseload standard

	Number of offices/ programs	Percent that met the national standard of 1 attorney per -	
		75 felony (non-capital) cases received	200 misdemeanor cases received
County-based offices			
Total	527	35 %	65 %
Less than 1,000 cases received	136	68 %	87 %
1,000-2,500	123	32	70
2,501-5,000	102	17	56
More than 5,000	154	21	47
State-based programs			
Total*	22	28 %	42 %
Less than 20,000 cases received	5	40 %	40 %
20-000-50,000	4	75	50
50,001-100,000	5	0	60
More than 100,000	5	0	20

*Alaska, Missouri, and New Mexico did not provide complete caseload data.

*Based on the 1973 National Advisory Council on Indigent Defense standard that an attorney should have no more than 150 felony cases OR 400 misdemeanor cases in a year. Assumes that all attorneys carry an equal caseload and that all attorneys handle both felony and misdemeanor cases.

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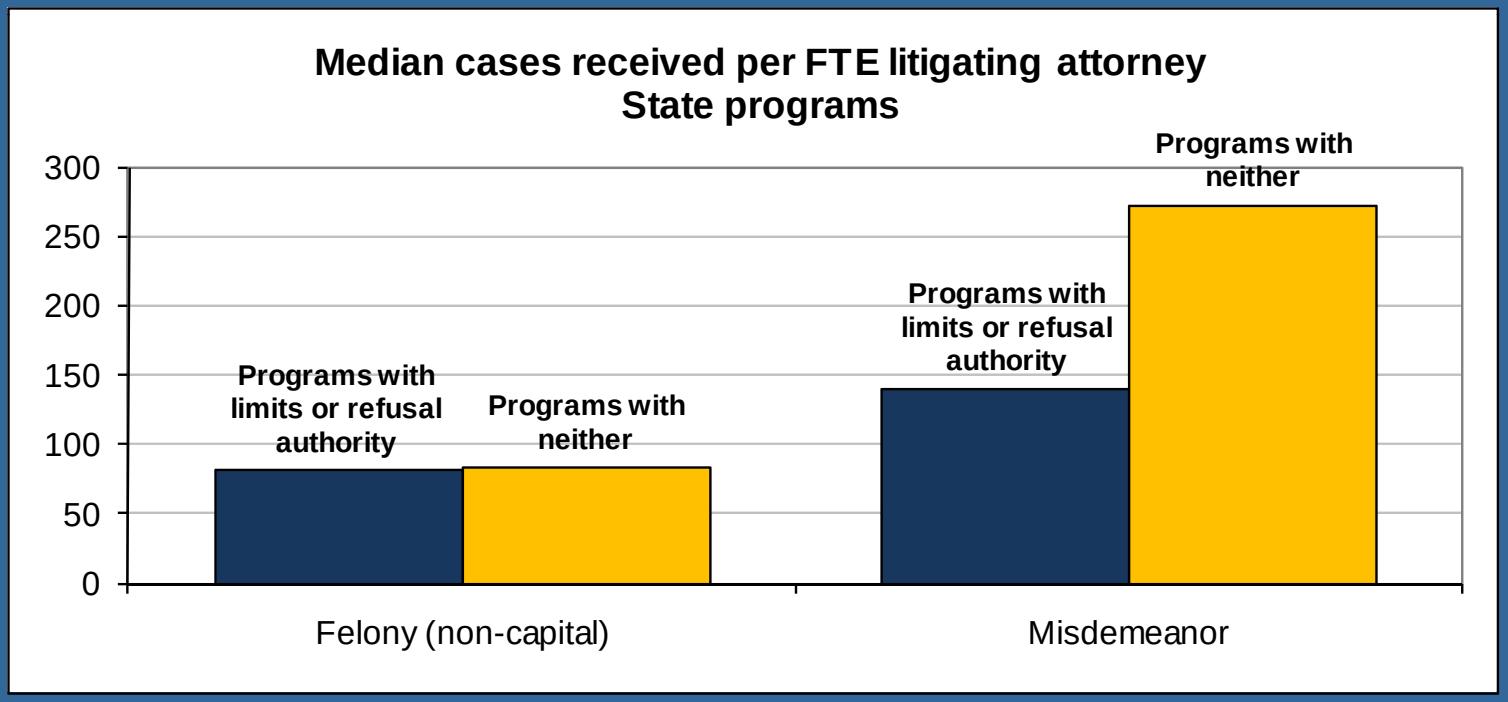
State programs with either caseload limits or authority to refuse cases had substantially fewer misdemeanor cases per attorney



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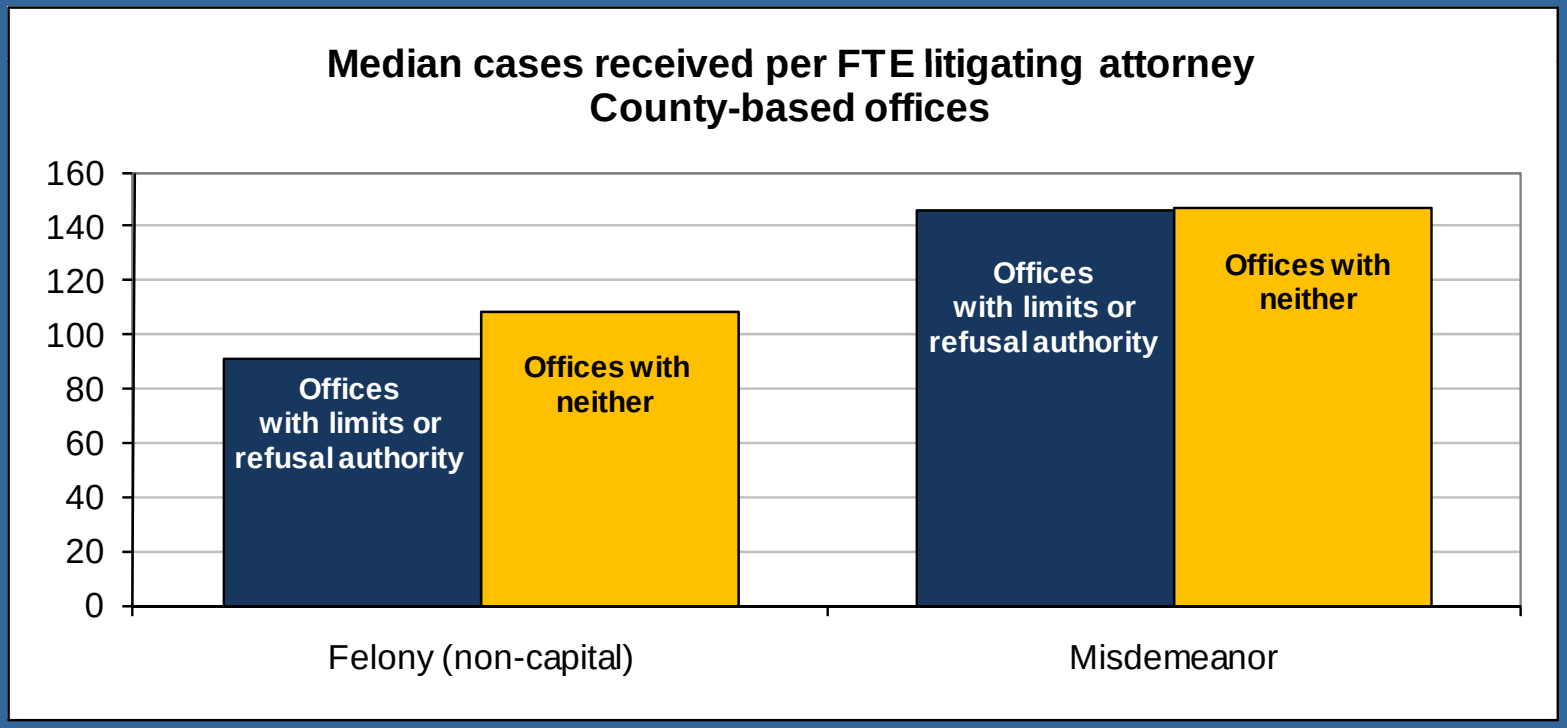
County-based offices with either caseload limits or authority to refuse cases had fewer felony cases per attorney